

## CHAPTER 10

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Article 1. In General

## Sec. 10-1 Definitions

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Adultery. Persons being married, voluntarily having sexual intercourse with any person not his spouse.

Animal. Includes birds and fowl.

Automatic Dialing Device. "Automatic dialing device" shall mean a device which is interconnected to a telephone line and is programmed to select a predetermined telephone number and transmit by prerecorded voice message or code signal the existence of criminal, fire, rescue or emergency medical activity at the protected premises or on a specific individual.  
(NEW 1-4-82)

Bawdy place. Any place within or without any structure or building which is used or is to be used for lewdness, assignation, or prostitution, and the term shall include, but not be limited to, every house of prostitution, house of ill fame, bawdy house, house of assignation and brothel.

Fornication. Persons, not being married, voluntarily having sexual intercourse with any other person.

Loiter. To remain idle or stand around, wander or saunter, stroll, play in or upon or lag behind without legitimate or lawful reason.

Obscene. That which considered as a whole has as its dominant theme or purpose an appeal to prurient interest; that is, a shameful or morbid interest in nudity, sex or excretion, and goes substantially beyond customary limits of candor in description or representation of such matters.

Place open to the public. Any privately owned place of business carried on for profit, or any place of amusement or entertainment, to which the public is invited.

Prostitution. Any person who, for money or its equivalent, commits adultery or fornication or offers to commit adultery or fornication and thereafter does any substantial act in furtherance thereof, shall be guilty of being a prostitute or of prostitution.

Public Place. Any public street, highway, road, alley, park, playground, dock, public building, public facilities, publicly owned parking lot, storage area or other publicly owned places.  
(Code 1962. § 5-1; 3-66)

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## Sec. 10-2 Attempts to Commit Violations of Chapter<sup>1</sup>

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<sup>1</sup>For similar State law as to statutes, see Code of Va. §§ 18.2-27, 18.-28.

Every person who attempts to commit an offense which is a violation of any of the sections of this chapter shall be confined in jail for a term not exceeding six months or fined an amount not exceeding two hundred fifty dollars (\$250.00), either or both; but in no event shall the punishment for such an attempt exceed the maximum punishment had the violation been committed. (Code 1962, § 5-3; 3-66)

Sec. 10-3 Causing or Encouraging Children Under Eighteen Years to Commit Misdemeanors, Etc.<sup>2</sup>

Any person eighteen years of age or older, including the parent of any child, who shall cause or encourage any child under the age of eighteen years to commit any misdemeanor, or who shall send or cause any such child to go into any place for an unlawful purpose, or who shall in any way subject any such child to vicious or immoral influences, or who shall induce, cause, encourage or contribute toward the dependency, neglect or delinquency of any such child, shall be guilty of a misdemeanor. (Code 1962, § 5-4; 3-66)

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Article 2. Offenses Against the Person

Sec. 10-4 Assault and Battery

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<sup>2</sup>For similar State law, see Code of Va. § 18.2-371.

No person shall attempt or offer with unlawful force or violence to do bodily harm to another person, whether or not the attempt or offer is consummated.

No person shall unlawfully and intentionally, or with culpable negligence, apply force to the person of another by a material agency, used directly or indirectly.  
(Code 1962, § 5-24; 3-66)

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### Article 3. Offenses Against Property

#### Sec. 10-5 Advertising Matter -- Attaching to Poles or Trees.

It shall be unlawful for any person to tack or otherwise attach any advertising matter or other substance to any telephone, telegraph, or electric transmission pole or to any tree within the Town.  
(Code 1962, § 5-23; 3-66)



Sec. 10-6 Animal, Aircraft, Vehicle or Boat -- Unauthorized Use.<sup>1</sup>

No person shall take, drive or use any animal, aircraft, vehicle, boat or vessel, not his own, without the consent of the owner thereof and in the absence of the owner, and with intent temporarily to deprive the owner thereof of his possession thereof, without intent to steal the same. The consent of the owner of an animal, aircraft, vehicle, boat or vessel to its taking, driving or using shall not in any case be presumed or implied because of such owner's consent on a previous occasion to the taking, driving or using of such animal, aircraft, vehicle, boat or vessel by the same or a different person. Any person who assists in, or is a party or accessory to, or an accomplice in, any such unauthorized taking, driving or using shall be subject to the same punishment as if he were the principal offender. (Code 1962, § 5-38; 3-66)

Sec. 10-7 Concealment of Merchandise on Premises of Store -- Generally.<sup>2</sup>

It shall be unlawful for any person, without authority, willfully to conceal goods or merchandise of any store, while still upon the premises of such store. (Code 1962, § 5-26; 3-66)

Sec. 10-8 Same -- Exemption from Civil Liability in Connection with Arrest of Suspected Person.<sup>3</sup>

A merchant, agent or employee of the merchant, who causes the arrest of any person pursuant to the provisions of section 10-7, shall not be held civilly liable for unlawful detention, slander, malicious prosecution, false imprisonment, false arrest or assault and battery of the person so arrested whether such arrest takes place upon the premises of the merchant, or after close pursuit from such premises by such merchant, his agent or employee; provided, that in causing the arrest of such person, the merchant, agent or employee of the merchant had at the time of such arrest probable cause to believe that the person committed willful concealment of goods or merchandise. (Code 1962, § 5-27; 3-66)

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<sup>1</sup>For similar State law, see Code of Va. § 18.2-102

<sup>2</sup>For similar State law, see Code of Va. § 18.2-103

<sup>3</sup>For similar State law, see Code of Va. § 18.2-105

Sec. 10-9 Fences and Gates -- Pulling Down or Leaving Open.<sup>4</sup>

No person, without the permission of the owner, shall pull down the fences of another and leave the same down, or without permission, open and leave open the gate of another, or any gate across a public road established by order of court. No person other than the owner of the lands through which a line of railroad runs shall open and leave open a gate at any public or private crossing of the right-of-way of a railroad. (Code 1962, § 5-39; 3-66)

Sec. 10-10 Fill Material -- Use of Certain Items Prohibited.

It shall be prohibited to use materials such as tree stumps, brush, prunings, lumber or other undecomposed organic matter or scrap metal or scrap paper or other materials definable as trash, garbage or undecomposed waste material, for fill material any place other than officially designated fills.

It is the intent of this section to prevent the use of such materials in fills, other than officially designated fills, as may subsequently rot, decay, rust, or otherwise decompose and result in abnormal settling or cave-ins or may prevent the timely use of lands thus filled or may result in eventual hazard to health, life, limb or property.

Any person who violates this section shall in addition to any other penalty imposed under this Code be liable for the removal and disposal of the prohibited fill material and proper refilling, or the cost thereof. (Code 1962, § 5-41; 3-66)

Sec. 10-11 Fire Apparatus -- Interfering or Tampering with Prohibited.

It shall be unlawful for any person to interfere or tamper with firefighting equipment owned and maintained by any person. (Code 1962, § 5-32; 3-66)

Sec. 10-12 Garage Keeper -- Defrauding.<sup>5</sup>

Whoever stores a motor vehicle with any person engaged in the business of conducting a garage for the storage of motor vehicles and furnishing supplies to motor vehicles and obtaining supplies for such motor vehicle, without having an express agreement for credit, or procures storage or supplies on account of such motor vehicle so stored without paying therefore, and with the intent to cheat or defraud the owner or keeper of such garage; or with such intent obtains credit at such garage for such storage or supplies through any misrepresentation or false statement; or with such intent removes or causes to be removed any such motor vehicle from any such garage

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while there is a lien existing thereon for the proper charges due from him for storage or supplies

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<sup>4</sup>For similar State law, see Code of Va. § 18.2-143

<sup>5</sup>For similar State law, see Code of Va. § 18.2-189

furnished thereon, shall be guilty of a misdemeanor. (Code 1962, § 5-28; 3-66)

Sec. 10-13 Goods Delivered for Selection or Approval--Failure to Pay for or Return.<sup>6</sup>

No person shall solicit and obtain from any licensed merchant any goods, wares or merchandise for examination or approval, and shall thereafter, upon written demand, refuse or fail to return the same to such merchant in unused condition, or to pay for the same. But the provisions of this section shall not apply unless such written demand be made within five days after delivery, and unless the goods, wares or merchandise shall have attached to them or to the package in which they are contained a label, card or tag containing the words "Delivered for selection or approval".

Sec. 10-14 Hired Animals, Vehicles, or Other Property or Equipment-Injuring;  
Procuring with Intent to Defraud.<sup>7</sup>

No person after having rented or leased from any other person any property of value shall willfully injure or damage the same by hard or reckless driving or using, or by using the same in violation of any statute of this State, or allow or permit any other person so to do, or hire the same to any other person without the consent of the bailor.

No person shall procure any such property by fraud or by misrepresenting himself as some other person or with intent to cheat or defraud such other person. The failure to pay the rental for or damage to such property or absconding without paying such rental or damage, shall be prima facie evidence of the intent to defraud at the time of renting or leasing such property. (Code 1962, § 5-31; 3-66)

Sec. 10-15 Hotels, Motels, Boardinghouses, Etc., Defrauding.<sup>8</sup>

Whoever puts up at a hotel, motel or boardinghouse or obtains food from a restaurant or other eating house and, without having an express agreement for credit, procures food, entertainment or accommodation without paying therefore and with intent to cheat or defraud the owner or keeper of such hotel, motel, boardinghouse, restaurant or other eating house out of the pay for the same; or with intent to cheat or defraud such owner or keeper out of pay therefore,

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<sup>6</sup>For similar State law, see Code of Va., § 18.2-116.

<sup>7</sup>For similar State law, see Code of Va., §§ 18.2-149, 18.2-206.

<sup>8</sup>For similar State law, see Code of Va., 18.2-188

obtains credit at a hotel, motel, boardinghouse, restaurant or other eating house for such food, entertainment or accommodation by means of any false showing of baggage or effects brought thereto; or with such intent obtains credit at a hotel, motel, boardinghouse, restaurant or other eating house for such food, entertainment or accommodation through any misrepresentation or false statement; or with such intent removes or causes to be removed any baggage or effects from a hotel, motel, boardinghouse, restaurant or other eating house while there is a lien existing thereon for the proper charges due from him for fare and board furnished therein, shall be guilty of a misdemeanor. (Code 1962, § 5-29; 3-66)

Sec. 10-16 Issuing Bad Checks, Etc., -- Generally.<sup>9</sup>

No person shall, with intent to defraud, make or draw or utter or deliver any check, draft or order for the payment of money, upon any bank, banking institution, trust company or other depository, knowing at the time of such making, drawing, uttering or delivering, that the maker or drawer has not sufficient funds in, or credit with, such bank, banking institution, trust company or other depository, for the payment of such check, draft or order, although no express representation is made in reference thereto.

The word "credit" as used herein shall be construed to mean any arrangement or understanding with the bank, trust company, or other depository for the payment of such check, draft or order.

Sec. 10-17 Same--On Behalf of Business Firm or Corporation in Payment of Wages.<sup>10</sup>

No person shall make, draw or utter, or deliver any check, draft or order for the payment of money, upon any bank, banking institution, trust company or other depository on behalf of any business firm or corporation for the purpose of paying wages to any employee of such firm or corporation or for the purpose of paying for any labor performed by any person for such firm or corporation knowing, at the time of such making, drawing, uttering or delivering, that the account upon which such check, draft or order is drawn has not sufficient funds, or credit with, such bank, banking institution, trust company or other depository, for the payment of such check, draft or order, although no express representation is made in reference thereto.

The word "credit" as used herein shall be construed to mean any arrangement or understanding with the bank, banking institution, trust company or other depository for the payment of such check, draft or order.

In addition to any criminal penalty, such person shall be personally liable in any civil action brought upon such check, draft or order.

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<sup>9</sup>For similar State law, see Code of Va., § 6.1-115

<sup>10</sup>For similar State law, see Code of Va., § 6.1-116

Sec. 10-18 Same--Prima Facie Evidence of Intent and Knowledge; Notice by Certified or Registered Mail.<sup>11</sup>

In any prosecution or action under the preceding sections, the making or drawing or uttering or delivery of a check, draft or order, payment of which is refused by the drawee because of lack of funds or credit shall be prima facie evidence of intent to defraud or of knowledge of insufficient funds in, or credit with, such bank banking institution, trust company or other depository unless such maker or drawer, or someone for him shall have paid the holder thereof the amount due thereon, together with interest, and protest fees, if any, within five days after receiving written notice that such check, draft or order has not been paid to the holder thereof. Notice mailed by certified or registered mail, evidenced by return receipt to the last known address of the maker or drawer shall be deemed sufficient and equivalent to notice having been received by the maker or drawer.

If such check, draft or order shows on its face a printed or written address, home, office or otherwise, of the maker or drawer, then the foregoing notice when sent by certified or registered mail to such address, with or without return receipt requested, shall be deemed sufficient and equivalent to notice having been received by the maker or drawer whether such notice shall be returned undelivered or not.

When a check is drawn on a bank in which the maker or drawer has no account, it shall be presumed that such check was issued with intent to defraud, and the five-day notice set forth above shall not be required in such case.

Sec. 10-18.1 Presumption as to Notation Attached to Check, Draft or Order.

In any prosecution or action under the preceding sections, any notation attached to a check, draft or order which is refused by the drawee because of lack of funds, or credit, bearing the terms "not sufficient funds", "uncollected funds", "account closed", or "no account in this name", or words of similar import, shall be prima facie evidence that such notation is true and correct. (Amend. 8/5/74)

Sec. 10-19 Money or Signature, Etc.--Obtaining by False Pretense.<sup>12</sup>

No person shall obtain, by any false pretense or token from any person with intent to defraud, money or other property which may be the subject of larceny; or by any false pretense or token with such intent, the signature of any person to a writing.

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<sup>11</sup>For similar State law, see Code of Va., § 6.1-117

<sup>12</sup>For similar State law, see Code of Va., § 18.2-178

## Sec. 10-20 Nuisances--Maintaining Prohibited.

It shall be unlawful for any person to create or maintain within the Town anything which is deemed a nuisance under common law or State law. The court may, in addition to any other penalty under this Code, order the nuisance to be abated or removed, prescribing the time within which such order shall be executed. Should the nuisance not be abated or removed in accordance with the court's order, the offending person shall be fined for each day that such nuisance shall thereafter continue, and the court may cause such nuisance to be abated or removed at the cost of the offending person. (Code 1962, § 5-34; 3-66)

### Sec. 10-20.1 Nuisances -- Noise

(a) It is declared as a matter of legislative determination and public policy that the making, creation or maintenance of excessive, unnecessary or unusual loud noises, unusual and unnatural in their time and place and which disturb the usual peace, quietude, tranquility and normal enjoyable use of any residential area are detrimental to the public health, safety, convenience, welfare and prosperity of the residents of the Town of Vienna and constitute a public nuisance. (Amend. 12-5-77; 2-25-91)

(b) Any person, firm or corporation which permits, allows or suffers any such excessive, unnecessary, loud or unusual noise or noises as referred to in § 10-20.1(a) above, to emanate from his property or place of business so as to disturb the usual peace, quietude, tranquility and normal enjoyable use of any residence or residences in the Town shall be guilty of maintaining a public nuisance and, upon conviction thereof, shall be punished as provided in § 10-20 of this Code. (Amend. 12-5-77)

(c) In addition to any other excessive, unnecessary or unusually loud noises as referred to in § 10-20.1(a) above, and not to the exclusion of such, the following acts are specifically declared to be excessive, unnecessary and unusually loud noises, unusual and unnatural in their time and place and disturbing to the usual peace, quietude, tranquility and normal enjoyable use of residential area; are detrimental to public health, safety, and welfare of the residents of the Town of Vienna, and constitute a public nuisance: (Amend./New 2-25- 91)

(1) The loading or unloading of commercial vehicles within 300 feet of any residence between the hours of 11:00 p.m. and 6:00 a.m.;

(2) The repair, collection from, or servicing of any trash or garbage compaction, processing, or disposal equipment located on the exterior of any building between the hours of 11:00 p.m. and 7:00 a.m. within 300 feet of any residence;

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(3) The erection (including excavation), demolition, alteration, or repair, and any and all activity necessary or incidental thereto, of any building between 8:00 p.m. and 7:00 a.m.,

or on Sunday; except a dwelling house when the activity is being conducted by an owner or occupant or agent thereof and not for profit, in which case such operations may be conducted on any day of the week, including Sunday, except between 8:00 p.m. and 7:00 a.m.; and except during any emergency caused necessity to protect the public health and safety as determined by the Director of Public Works, Chief of Police, Chief of the Vienna Volunteer Fire Department, Fairfax County Building Inspector, or Fairfax County Fire Marshal;

(4) The operation between the hours of 8:00 p.m. and 7:00 a.m. of any pile driver, hammer, chain saw, steam, diesel, or gasoline powered shovel, derrick or hoist, or other equipment, the use of which is attended by loud and unusual noise, except during any emergency caused necessity to protect the public health and safety as determined by the Director of Public Works, Chief of Police, Chief of the Vienna Volunteer Fire Department, Fairfax County Building Inspector, or Fairfax County Fire Marshal.

(5) The operation of any propulsion engine of a commercial motor vehicle for more than three (3) minutes when the vehicle is parked, left unattended, or is stopped for other than traffic or maintenance reasons.

(6) The operation of internal combustion powered refrigeration equipment on trucks, trailers or other vehicles between the hours of 11:00 p.m. and 7:00 a.m. when the same are parked for more than ten (10) minutes.

#### Sec. 10-21 Peeping or Spying Through Windows, Etc., Prohibited.

No person shall unlawfully enter upon the property of another, at any time, and secretly or furtively peep through or attempt to so peep into, through or spy through, a window, door or other aperture of any building, structure, or other enclosure of any nature, whether or not such building, structure, or enclosure is permanently situated or transportable.  
(Code 1962, § 5-35; 3-66)

#### Sec. 10-22 Petit Larceny.<sup>13</sup>

Any person who: (a) commits larceny from the person of another of money or other thing of value of less than five dollars (\$5.00), or (b) commits simple larceny not from the person of another of goods and chattels of the value of less than one hundred dollars (\$100.00), shall be deemed guilty of petit larceny. (Code 1962, § 5-36; 3-66; 3-67)

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§ 10-25

#### Sec. 10-23 Property -- Destroying or Damaging.

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<sup>13</sup>For similar State law, see Code of Va., § 18.2-96

The unlawful taking, carrying away, defacing, disfiguring, cutting, marking, breaking or otherwise injuring or destroying in part or whole of any property belonging to another, real or personal, public or private, by any person is prohibited. (Code 1962, § 5-30; 3-66)

#### Sec. 10-23.1

Any person found guilty of removing, taking, tampering with, destroying, altering, defacing, or damaging any sign or signal erected to control the flow of vehicular traffic on the public streets or highways of the Town of Vienna shall be fined not less than one hundred dollars (\$100.00), nor more than one thousand dollars (\$1,000.00). (Amend. 8-17-70)

#### Sec. 10-24 Property or Credit -- Making False Statements to Obtain.<sup>14</sup>

No person shall knowingly make or cause to be made, either directly or indirectly, or through any agency, any false statement in writing with intent that it shall be relied upon, concerning the financial condition or means or ability to pay of himself or any other person for whom he is acting, or any firm or corporation in which he is interested or for which he is acting, for the purpose of procuring for his own benefit or for the benefit of such person, firm or corporation, the delivery of personal property, the payment of cash, the making of a loan or credit, the extension of credit, the discount of an account receivable or the making, acceptance, discount, sale or endorsement of a bill of exchange or promissory note; or, knowing that a false statement in writing concerning the financial condition or ability to pay of himself or of any such person, firm or corporation has been made, procures with like intent, upon the faith thereof, for his own benefit, or for the benefit of such person, firm or corporation, any such delivery, payment loan, credit, extension, discount making, acceptance, sale or endorsement, and fails to pay for such loan, credit or benefit so procured.

#### Sec. 10-25 Stolen Goods -- Receiving and Buying.<sup>15</sup>

If any person buys or receives from another person, or aids in concealing any stolen goods or other thing, knowing the same to have been stolen, he shall be deemed guilty of larceny thereof, and may be proceeded against, although the principal offender is not convicted. (Code 1962, § 5-25; 3-66)

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#### Sec. 10-26 Telephone, Telegraph, Telecasting or Lighting Equipment -- Interfering or Tampering With Prohibited.

It shall be unlawful for any person willfully or maliciously to interfere with, or in any way tamper with, any telephone or telegraph wire or other material or property of any telephone,

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<sup>14</sup>For similar State law, see Code of Va., § 18.2-186

<sup>15</sup>For similar State law, see Code of Va., § 18.2-108





Sec. 10-29      Waterworks and Sewage Collection and Disposal Facilities -- Injuring,  
Defacing, Etc.

No person shall injure or deface any sewage disposal facility, pump station or any house, wall, stopcock, fireplug, or any other fixture connected with or pertaining to any waterworks, or sewage facility, without lawful authority, climb over or get through the enclosure around such facility and waterworks, or place any building material or other thing on the stopcock or other fixture of a street water main or other service pipe so as to obstruct access thereto, or remove or injure any pipe, fireplug, hydrant, or stopcock, or use water from the waterworks for any other purpose for which he has not obtained permission. (Code 1962, § 5-42; 3-66)

Sec. 10-30 Wells or Pits -- Filling Before Abandonment; Duty of Owners of Land.

Any person who has dug or has caused to be dug, or shall cause to be dug on his own land or the land of another, any well or pit shall fill such well or pit with earth before such well or pit is abandoned. Any person owning or in possession of land whereon any well or pit is located shall fill with earth any such well or pit which has been abandoned.  
(Code 1962, § 5-43; 3-66)

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Offenses – Miscellaneous

§ 10-33.1.1

Article 4. Offenses Against Morality and Decency

Sec. 10-31 Adultery and Fornication.

No person shall commit adultery or fornication.

Nothing in this section is intended to contravene the provisions of § 18-191 of the Code of

Virginia. (Code 1962, § 5-5; 3-66)

Sec. 10-33 Bawdy Place -- Residing In or Frequenting.<sup>1</sup>

It shall be unlawful for any person to frequent, reside in or at or visit for immoral purposes, any bawdy place. (Code 1962, § 5-5; 3-66)

Sec. 10-33 Same -- Keeping.<sup>2</sup>

It shall be unlawful for any person to keep any bawdy place, or, with knowledge or reason to believe the same is to be used for immoral purposes, any place where persons may meet for the purpose of prostitution or unlawful sexual intercourse in this Town. In a prosecution for this offense, the general reputation of the place may be proved. (Code 1962, § 5-15; 3-66)

Sec. 10-33.1 Massage Parlor, Bath Parlor or Health Club.

It shall be unlawful to operate any establishment in the Town of Vienna public or private as a massage parlor, bath parlor or health club or similar type business where those administering the service or treatment provided therein administer such service or treatment to a person of the opposite sex. Any person violating the provisions of this section shall be guilty of a misdemeanor. (Amend. 5-24-71)

Sec. 10-33.1.1 Same -- Immoral Purposes.

It shall be unlawful for any person acting as or employed as a massagist or in massage parlor or public baths to massage other persons or give or administer baths or other things for immoral purposes or in a manner that would or is intended to arouse, appeal to or gratify lust, passion, sexual desires or prurient interest of a person. Any person violating the provision of this section shall be guilty of a misdemeanor. (Amend. 5-24-71)

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Sec. 10-33.1.2 Nude or Indecent Posing.

It shall be unlawful to operate any establishment, whether public or private facility, as a studio, club or similar type business where nude or indecently attired models are provided, to be photographed, sketched, or painted. Any person violating the provisions of this section shall be guilty of a misdemeanor; and in addition to such penalty, it shall be the duty of the Town Manager of Vienna to revoke the license of the owner or manager of the establishment wherein the provisions of this section shall have been violated.

Violations of the above sections, upon conviction, shall be punished by a fine of no less than

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<sup>1</sup>For similar State law, see Code of Va., § 18.2-347

<sup>2</sup>For similar State law, see Code of Va., § 18.2-347

twenty-five dollars (\$25.00) or more than five hundred dollars (\$500.00) or no less than ten (10) days or more than one (1) year in the County jail, or both. (Amend. 5-24-71)

Sec. 10-34 Drunkenness or Profane Swearing.

If any person is intoxicated in public, whether such intoxication results from alcohol, narcotic drug or other intoxicant or drug of whatever nature, he shall be deemed guilty of a Class 4 misdemeanor. In any area in which there is located a court-approved detoxification center, a law-enforcement officer may authorize the transportation, by police or otherwise, of public inebriates to such detoxification center in lieu of arrest; however, no person shall be involuntarily detained in such center. (Amend. 05/04)

Sec. 10-35 Indecent Exposure or Language.

It shall be unlawful for any person to expose his person indecently, or to procure another to so expose himself, or to act indecently, or to use indecent language in any street or public place in the town, or in any place where others are present.

Nothing in this section is intended to contravene the provisions of § 18.2-370 of the Code of Virginia. (Code 1962, § 5-9; 3-66)

Sec. 10-36 Lewd and Lascivious Cohabitation.

No persons not married to each other shall lewdly and lasciviously associate and cohabit together; or, whether married or not, be guilty of open and gross lewdness.  
(Code 1962, § 5-10; 3-66)

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§ 10-39

Sec. 10-37 Obscene Figures or Words -- Drawing or Writing on Houses, Pavements, Etc.<sup>3</sup>

It shall be unlawful to draw an obscene figure or write obscene words upon any house, structure, wall, pavement, fence or upon any public place within the Town. (Code § 5-11; 3-66)

Sec. 10-38 Obscene Pictures and Literature.

It shall be unlawful for any person to display, distribute, sell or offer for sale any obscene

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<sup>3</sup>For State law as to obscenity, see Code of Va., § 18.2-327

item or literature in the Town. (Code 1962, § 5-13; 3-66)

Sec. 10-39 Profane, Threatening or Indecent Language --Use Over Telephone.<sup>4</sup>

It shall be unlawful for any person to use vulgar, profane, threatening or indecent language over any telephone in the Town. (Code 1962, § 5-12; 3-66)

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<sup>4</sup>For similar State law, see Code of Va., § 18.2-423, § 18.2-430, and § 18.2-431

## Vienna Town Code

Article 5. Offenses Against the Peace

Division 1. Generally

Sec. 10-40 Airguns, Slingshots, Etc. -- Use Prohibited; Exception.

No person shall use any instrument for projecting missiles likely to do injury to persons or property, such as an airgun, BB gun, slingshot, grit shooter, bow and arrow, etc., in the Town. The provisions of this section shall not apply to instruction given under the control of personnel specifically authorized in writing by the Town Manager to perform such instruction. (Code 1962, § 5-16; 3-66)

Sec. 10-41 Disorderly Conduct. (Amend. 5-10-82)

A person is guilty of disorderly conduct if with the intent to cause public inconvenience, annoyance or alarm, or recklessly creating a risk thereof, he:

(a) In any street, highway, public building, or while in or on a public conveyance, or public place in the Town of Vienna, engages in conduct having a direct tendency to cause acts of violence by the person or persons at whom, individually, such conduct is directed; provided, however, such conduct shall not be deemed to include the utterance or display of any words or to include conduct otherwise made punishable under this Chapter; or

(b) Willfully or being intoxicated, whether willfully or not, disrupts any meeting of the Vienna Town Council or any Board, Commission, or Committee of the Town government, or of any school, literary society or place of religious worship, if such disruption prevents or interferes with the orderly conduct of such meeting or has a direct tendency to cause acts of violence by the person or persons at whom, individually, such disruption is directed; provided, however, such conduct shall not be deemed to include the utterance or display of any words or to include conduct otherwise made punishable under this Chapter.

The person in charge of any such building, place, conveyance or meeting may eject therefrom any person who violates any provision of this section with the aid, if necessary, of any persons who may be called upon for such purpose.

(c) Any person violating any provision of this section shall be guilty of a Class 1 misdemeanor. (For Virginia State Code provision, see § 18.2-415)

Sec. 10-41.1 Disorderly Conduct in Public Places. (Repealed 5-82)

Sec. 10-41.2 Punishment for Using Abusive Language to Another.

If any person shall, in the presence or hearing of another, curse or abuse such other person, or use any violent abusive language to such person concerning himself or any of his relations, or otherwise use such language, under circumstances reasonably calculated to provoke a breach of the peace, he shall be guilty of a Class 3 misdemeanor. (Amend. 2-77)

Sec. 10-42 Disturbing Public Assemblies.

It shall be unlawful for any person in the Town willfully to interrupt any assembly, meeting for the worship of God, or other meeting of persons lawfully assembled in any public building or place, or to disturb the same. (Code 1962, § 5-19; 3-66)

Sec. 10-43 Firearms -- Discharge Prohibited; Exceptions.

It shall be unlawful for any person in the Town to willfully fire or discharge any gun, pistol or other firearms except in a shooting gallery constructed and operated in accordance with the regulations of the National Rifle Association, and further, except where such firing or discharging is done with the written permission of the Town Manager and under the supervision of properly authorized Town personnel. This section shall not apply to any law enforcement officer in the performance of his official duties nor to any other person whose act is otherwise justifiable or excusable at law in the protection of his life or property, or is otherwise specifically authorized by law. (Code 1962, § 5-20; 3-66)

Sec. 10-44 Noise.

The creation and continuation of any loud, disturbing and unnecessary noise in the Town is hereby prohibited.

Nothing contained herein is intended to prevent usual and customary noise incident to school parades and the like which may be authorized under this Code. (Code 1962, § 5-21; 3-66)

Sec. 10-45 Weapons -- Carrying Concealed Prohibited.<sup>1</sup> (Amend. 1-88)

Except as authorized by law, it shall be unlawful for any person to carry about his person, hidden from common observation:

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§ 10-45.1

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<sup>1</sup>For State law as to carrying concealed weapons, see Code of Va., § 18.2-460



1. Any pistol, revolver, or other weapon designed or intended to propel a missile of any kind; or
2. Any dirk, bowie knife, switchblade knife, razor, slingshot, spring stick, metal knucks, blackjack; or
3. Any flailing instrument consisting of two or more rigid parts connected in such a manner as to allow them to swing freely, which may be known as a nun chahka, nun chuck, nunchaku, shuriken, or fighting chain; or
4. Any disc, of whatever configuration, having at least two points or pointed blades which is designed to be thrown or propelled and which may be known as a throwing star or oriental dart; or
5. Any weapon of like kind as those enumerated in this subsection.

Violation of this section shall constitute a Class 1 misdemeanor and the weapon shall be forfeited to the Town.

Sec. 10-45.1 Pointing or Brandishing Firearm or Object Similar in Appearance. (New 1-88)

- (a) It shall be unlawful for any person to point, or brandish any firearm, as hereinafter described, or any object similar in appearance to a firearm, whether capable of being fired or not, in such manner as to reasonably induce fear in the mind of another. Persons violating the provisions of this section shall be guilty of a Class 1 misdemeanor.
- (b) Any police officer in the performance of his duty in making an arrest under the provisions of this section shall not be civilly liable in damages for injuries or death resulting to the person being arrested if he had reason to believe that the person being arrested was pointing, or brandishing such firearm, or object which was similar in appearance to a firearm, with intent to induce fear in the mind of another.
- (c) For purposes of this section, the word "firearm" shall mean any weapon in which ammunition may be used or discharged, by explosion, or pneumatic pressure. The word "ammunition" as used herein shall mean cartridge, pellet, ball, missile or projectile adapted for use in a firearm.

Division 2. Routs, Riots and Unlawful Assemblies  
(Of Article 5, Offenses Against the Peace)

Sec. 10-46 Obstructing Free Passage of Others.

Any person who in any public place or on any private property open to the public unreasonably or unnecessarily obstructs the free passage of other persons to and from or within such public place or private property and who shall fail or refuse to cease such obstruction or move on when requested to do so by the owner or lessee or agent or employee of such owner or lessee, or by a duly authorized law enforcement officer, shall be guilty of a misdemeanor. Nothing in this section shall be construed to prohibit lawful picketing.

Sec. 10-47 What Constitutes Riot, Rout or Unlawful Assembly.

As used in this division:

- (a) Any unlawful use of force or violence by six or more persons acting together is riot. Any threat to use unlawful force or violence, if accompanied by immediate power of execution, by six or more persons acting together to cause, produce or promote unlawful use of force or violence, is riot.
- (b) Whenever three or more persons acting together make any attempt to do any act which would be riot if actually committed, such acts shall be a rout.
- (c) Whenever three or more persons assemble with the common intent or with means and preparations to do an unlawful act which would be riot if actually committed, but do not act toward the commission thereof, or whenever three or more persons assemble without authority of law and for the purpose of disturbing the peace or exciting public alarm or disorder, such assembly is an unlawful assembly.

Sec. 10-48 Participating in Riot.

Every person convicted or participating in any riot shall be punished as follows:

- (a) If any grand larceny, burglary, murder, maiming, robbery, kidnapping, abduction, rape or arson was committed in the course of such riot and there is proof that such offense was caused, procured, encouraged or resulted from such riot, and that such person had personal knowledge that such offense or offenses were taking place, in the same manner as a principal in the most serious of any such offense as was committed; or, in the discretion of the jury, or judge trying the case without a jury, by confinement in jail not to exceed one year or by fine not to exceed one thousand dollars (\$1,000).

(b) If the purpose of the riotous assembly was to resist the execution of any statute of this State or of the United States, or to obstruct any public officer of his state or of the United States in the performance of any legal duty, or in serving or executing any legal process, by imprisonment in the penitentiary for not less than two years nor more than ten years; or, in the discretion of the jury, or judge trying the case without a jury, by confinement in jail not to exceed one year or by fine not to exceed one thousand dollars (\$1,000).

(c) If such person carried at the time of such riot any species of firearms or other deadly or dangerous weapon, or was disguised, by imprisonment in the penitentiary for not less than two years nor more than ten years; or, in the discretion of the jury, or judge trying the case without a jury, by confinement in jail not to exceed one year or by fine not to exceed one thousand dollars (\$1,000).

(d) If such person conspired with others to cause or produce a riot, or directed, advised, encouraged, incited or solicited other persons who participated in the riot to acts of force or violence, by imprisonment in the penitentiary for not less than two nor more than ten years; or, in the discretion of the jury, or judge trying the case without a jury, by confinement in jail not to exceed one year or by fine not to exceed one thousand dollars (\$1,000).

(e) In all other cases, in the same manner as for a misdemeanor.

#### Sec. 10-49 Participating in Rout or Unlawful Assembly.

Every person who participates in any rout or unlawful assembly shall be guilty of a misdemeanor.

#### Sec. 10-50 Remaining at Place of Riot, Rout or Unlawful Assembly After Warning to Disperse.

Every person, except public officers and persons assisting them, remaining present at the place of any riot, rout or unlawful assembly after having been lawfully warned to disperse, shall be guilty of a misdemeanor.

#### Sec. 10-51 Commission, Etc., of Act Amounting to Riot or Rout at Lawful Assembly.

When three or more persons assemble for a lawful purpose and afterwards proceed to commit or attempt or threaten to commit an act which would amount to rout or riot if it had been the original purpose of the meeting, every person, except public officers and persons assisting them, who does not retire when the change of purpose is made known, shall be guilty of a misdemeanor.

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#### Sec. 10-52 Resisting or Obstructing Execution of Legal Process.

Every person acting jointly or in combination with any other person to resist or obstruct the execution of any legal process shall be punished by imprisonment in jail for not more than one year,

or by a fine of not more than one thousand dollars (\$1,000), or by both such fine and imprisonment.

Sec. 10-53 Power of Governor to Summon Law Enforcement Agencies, National Guard, Etc. to Execute Process or Preserve the Peace.

If it appears to the governor that the power of the locality is not sufficient to enable the Chief of Police or other officer to execute process delivered to him or to suppress riots and to preserve the peace, he may order law enforcement agencies, National Guard, militia or other agencies of the State or localities as may be necessary to execute such process and to preserve the peace. All persons so ordered or summoned by the governor are required to attend and act. Any person who, without lawful cause, refuses or neglects to obey the command, shall be guilty of a misdemeanor.

Sec. 10-54 Dispersal of Unlawful or Riotous Assemblies.

When any number of persons, whether armed or not, unlawfully or riotously are assembled, the police officials of the Town shall go among the persons assembled or as near to them as possible and command them in the name of the state immediately to disperse. If upon command the persons unlawfully assembled do not disperse immediately, the officer may use such force as is necessary to disperse them or to arrest those who fail or refuse to disperse. To this end, the law enforcement officer may seek and use the assistance and services of private citizens. Any private citizen who by request seeks to or assists the law enforcement officer or officers in dispersing persons unlawfully or riotously assembled shall be immune from civil or criminal liability for using such reasonable force as may be necessary to arrest or disperse those persons who fail to disperse as ordered.

Sec. 10-55 Duty of Officers Dispersing Rioters; Killing or Injuring Rioters.

Every endeavor shall be used, both by the officers and by the officer commanding any other force, which can be made consistently with the preservation of life, to induce or force the rioters to disperse before an attack is made upon them by which their lives may be endangered. If any of the persons so riotously or unlawfully assembled shall be killed, maimed or otherwise injured, in consequence of resisting the officers in dispersing and apprehending them, or in attempting to disperse and apprehend them, such officers and others acting by their authority, or the authority of any of them, shall be held guiltless; provided, that such killing, maiming or injury

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shall take place in consequence of the use of necessary and proper means to disperse or apprehend any such persons so riotously or unlawfully assembled.

Sec. 10-56 Commission of Certain Offenses When Town Declared by Governor to be In State of Riot or Insurrection.

Any person, who after the publication of a proclamation by the Governor, or who after lawful notice to disperse and retire, resists or aids in resisting the execution of process when the Town is

declared to be in a state of riot or insurrection, or who aids or attempts the rescue or escape of another from lawful custody or confinement, or who resists or aids in resisting a force ordered out by the Governor or any officer to quell or suppress an insurrection or riot, shall be guilty of a felony, and shall be punished by imprisonment in the penitentiary for not less than two years nor more than ten years; or, in the discretion of the jury, or judge trying the case without a jury, by confinement in jail not to exceed one year or by fine not to exceed one thousand dollars (\$1,000).

Sec. 10-57 Injury to Property or Persons by Person Unlawfully or Riotously Assembled.

If any persons, unlawfully or riotously assembled, pull down, injure or destroy, or begin to pull down, injure or destroy any dwelling house or other building, or assist therein, or perpetrate any premeditated injury on the person of another, he shall be imprisoned in the penitentiary not less than two nor more than five years; or, in the discretion of the jury, or judge trying the case without a jury, by confinement in jail not to exceed one year or by fine not to exceed one thousand dollars (\$1,000).

Sec. 10-58 Disposition of Fines; Payment of Costs.

All fines imposed for the violation of this division shall be paid to and retained by the Town, and the Commonwealth shall not be chargeable with any costs in connection with any prosecution for the violation of this division.

## Vienna Town Code

Article 6. Offenses Against Public Justice

Sec. 10-59 Obstructing Justice by Threats or Force.<sup>1</sup> (Amend. 3-20-95; 11-18-02)

A. If any person without just cause knowingly obstructs a judge, magistrate, justice, juror, attorney for the Commonwealth, witness, or any law-enforcement officer in the performance of his duties as such or fails or refuses without just cause to cease such obstruction when requested to do so by such judge, magistrate, justice, juror, attorney for the Commonwealth, witness, or law-enforcement officer, he shall be guilty of a Class 1 Misdemeanor.

B. If any person, by threats or force, knowingly attempts to intimidate or impede a judge, magistrate, justice, juror, attorney for the Commonwealth, witness, or any law-enforcement officer, lawfully engaged in his duties as such, or to obstruct or impede the administration of justice in any court, he shall be deemed to be guilty of a Class 1 Misdemeanor.

C. Any person who knowingly and willfully makes any materially false statement or representation to a law-enforcement officer who is in the course of conducting an investigation of a crime by another is guilty of a Class 2 Misdemeanor. (New 11-18-02)

Sec. 10-60 Officers--Making False Entries or Destroying Records.<sup>2</sup>

No clerk of the court or other public officer shall fraudulently make a false entry or erase, alter, secrete or destroy any record in his keeping and belonging to his office. Any person convicted under this section shall forfeit his office and be forever incapable of holding any office of honor, profit or trust in the government of the Town. (Code 1962, § 5-45; 3-66)

Sec. 10-61 Same--Refusing to Obey.

It shall be unlawful for any person to refuse to obey a lawful order of a police officer of the Town. (Code 1962, § 5-47; 3-66)

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<sup>1</sup>For similar State law, see Code of Va., § 18.2-460

<sup>2</sup>For similar State law, see Code of Va., § 18.2-472

Sec. 10-62 Same--Unlawful Wearing of Uniform.<sup>3</sup>

No person, not a police officer of the Town, the State or any of its political subdivisions shall wear any uniform customarily worn by such an officer. (Code 1962, § 5-50; 3-66)

Sec. 10-63 Public Records -- Theft or Destruction.<sup>4</sup>

No person shall steal or fraudulently secrete or destroy a public record or part thereof.

Any person convicted under this section shall be forever incapable of holding any office of honor, profit or trust in the government of the Town. (Code 1962, § 5-49; 3-66)

Sec. 10-64 Warrants, Processes, Writs, Etc. -- Simulation.<sup>5</sup>

No person, for the purpose of collecting money, shall knowingly deliver, mail, send or otherwise use or cause to be used any paper or writing simulating or intended to simulate any warrant, process, writ, notice of execution, lien or notice of motion for judgment.  
(Code 1962, § 5-48; 3-66)

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<sup>3</sup>For similar State law, see Code of Va., § 18.2-175

<sup>4</sup>For similar State law, see Code of Va., § 18.2-107

<sup>5</sup>For similar State law, see Code of Va., § 18.2-213



Article 7. Offenses Against Public Policy

Sec. 10-65 Ambulance, Police or Fire-Fighting Apparatus--Summoning Without Just Cause.<sup>1</sup>

It shall be unlawful for any person without just cause therefore to call or summon, by telephone or otherwise, any ambulance, police or fire-fighting apparatus.  
(Code 1962, § 5-52; 3-66)

Sec. 10-65.1 Automatic Dialing Device; Restriction on Use. (New 1-4-82)

(a) It shall be unlawful for any person to install or operate an automatic dialing device which is programmed to transmit a prerecorded message or code signal directly to the Fairfax Emergency Operations Center by the 911 Emergency Recording System approved by the Town of Vienna.

(b) Within forty-five (45) days after the effective date of this ordinance, all automatic dialing devices which are installed and programmed to transmit a message or code signal directly to the Fairfax Emergency Operations Center by the 911 Emergency Recording System shall be reprogrammed or disconnected. The user shall be responsible for said reprogramming or disconnection.

Sec. 10-66 Billiard Parlors, Skating Rinks, Bowling Alleys, Etc.--Hours of Operation; Gambling; Etc, Prohibited on Premises; Presence of Persons Under Eighteen Prohibited.<sup>2</sup>

All billiard parlors, skating rinks, bowling alleys and other similar places of amusement in the Town may be operated only between the hours of 8:00 a.m. and 12:00 midnight on weekdays, and 1:00 p.m. to 12:00 midnight Sunday.

No gambling, betting, drinking, profane language or any disorderly conduct whatsoever shall be allowed in any room in which pool or billiard tables are kept, or in other similar places of amusement in the Town.

It shall be unlawful for any person under the age of eighteen years to frequent, play or loiter in any poolroom or billiard parlor in the Town, or for the proprietor thereof or his agent to permit such person to frequent, play or loiter therein. (Code 1962, § 5-51; 3-66)

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<sup>1</sup>For similar State law, see Code of Va., § 18.2-212

<sup>2</sup>For similar State law, see Code of Va., §§ 18.2-432; 18.2-433

Sec. 10-67 False Publications.<sup>3</sup>

It shall be unlawful for any person knowingly and willfully to state, deliver or transmit by any means whatsoever to any publisher, or employee of a publisher, to any newspaper, magazine or other publication, any false and untrue statement concerning any person with intent that the same shall be published. (Code 1962, § 5-53; 3-66)

Sec. 10-68 False Reports to Police Officers.<sup>4</sup>

It shall be unlawful for any person knowingly to give a false report as to the commission of any offense to any law enforcement official with intent to mislead. (Code 1962, § 5-54; 3-66)

Sec. 10-69 Gambling-- Prohibited.<sup>5</sup>

No person shall bet, wager or play at any game for money or other thing of value. (Code 1962, § 5-55; 3-66)

Sec. 10-70 Same--Maintaining Room, Building, Etc.

No person shall keep or maintain any room, shed, vehicle or building or any part thereof in which games of cards or of chance shall be played for money or anything to be cashed in as money. (Code 1962, § 5-56; 3-66)

Sec. 10-71 Iceboxes, Refrigerators, Etc. -- Abandonment.<sup>6</sup>

It shall be unlawful for any person to discard, abandon, leave or allow to remain in any place any icebox, refrigerator or other container, device or equipment of any kind with an interior storage area of more than two cubic feet of clear space, without first removing the doors or hinges from such icebox, refrigerator, container, device or equipment.

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This section shall not apply to any icebox, refrigerator, container, device or equipment which

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<sup>3</sup>For similar State law, see Code of Va., § 18.2-209

<sup>4</sup>For similar State law, see Code of Va., § 18.2-461

<sup>5</sup>For similar State law, see Code of Va., § 18.2-326

<sup>6</sup>For similar State law, see Code of Va., § 18.2-319

is being used for the purpose for which it was originally designed, or is being used for display purposes by any retail or wholesale merchant, or is crated, strapped, or locked to such an extent that it is impossible for a child to obtain access to any airtight compartment thereof. (Code 1962, § 5-44; 3-66)

Sec. 10-72 Lotteries.<sup>7</sup>

(a) It shall be unlawful for any person to:

(1) Set up, promote or be concerned in managing or drawing a lottery or raffle for money or other thing of value.

(2) Knowingly permit such lottery on any premises under his control.

(3) Knowingly permit money or other property to be raffled for on such premises, or to be won thereon, by throwing or using dice, or by any other game of chance.

(4) Knowingly permit the sale on such premises of any chance or ticket in, or share of a ticket in, a lottery, or any writing, certificate, bill, token or other device purporting or intended to guarantee or assure to any person, or entitle him to a prize or share of, or interest in a prize to be drawn in a lottery.

(5) For himself or another person buy, sell or transfer or have in his possession for the purpose of sale or with intent to exchange, negotiate or transfer, or aid in selling, exchanging, negotiating or transferring, a chance or ticket in or share of a ticket in a lottery, or any such writing, certificate, bill, token or device.

(b) The provisions of this section shall not apply or include the operations or conduct of a lottery commonly known as the numbers game or the number racket. (Code 1962, § 5-57; 3-66)

Sec. 10-73 Punchboards, Slot Machines, Etc. -- Generally.<sup>8</sup>

If any person shall (1) keep or exhibit for sale or use, or be concerned in interest in keeping or exhibiting for sale or use, any (a) punchboard or similar device of any kind or description, (b) slot machines or similar device of any kind or character, or 8 other device that operates on the nickel-in-the-slot principle, in the operation of which any element of chance

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<sup>7</sup>For similar State law, see Code of Va., §§ 18.2-329, 18.2-335

<sup>8</sup>For similar State law, see Code of Va., § 18.2-331

whatever may enter, or through and from which it may be possible for one person to give any article of more value than that which any other person could or would get, or through and from which the article or thing vended is not the fair equivalent in value to the coin required to operate such machine or device; or (2) permit any such punchboard, slot machine or similar device to be kept or exhibited for sale or use in his place of business or in any other place in this State, he shall be guilty of a misdemeanor and such punchboard, slot machine or other device shall be deemed a gaming apparatus and shall be embraced within the provisions of §§ 19.2-53 19.2-56 and 19.2-58 of the Code of Virginia insofar as such sections relate to gaming apparatus.

The possession of such punchboard, slot machine or other device shall be prima facie evidence of the exhibition for sale or use thereof.

Any slot machine or device that operates on the nickel-in-the-slot principle and which does not uniformly return to the customer in each transaction the equivalent in value and kind of merchandise unaccompanied by coins, trade checks, or other items of monetary value that it returned in each preceding transaction, shall be deemed to embody the element of chance within the meaning of this section even though the machine or device be so constructed as to indicate in advance of each transaction what it will dispense upon the deposit of the next coin or slug; provided, that no machine or device which operates on the nickel-in-the-slot principle and which returns to the user nothing more than additional chances or rights to use such machine shall be deemed a punchboard, slot machine, similar device or other device within the meaning of this section. (Code 1962, § 5-61; 3-66)

#### Sec. 10-74 Slot Machine -- Defined.<sup>9</sup>

Any machine, apparatus or device is a slot machine or device within the provisions of § 10-75 if it is one that is adapted, or may readily be converted into one that is adapted, for use in such a way that, as a result of the insertion of any piece of money or coin or other object, such machine or device is caused to operate or may be operated, and by reason of any element of chance or of other outcome of such operation unpredictable by him, the user may receive or become entitled to receive any piece of money, credit, allowance or thing of value, or any check, slug, token or memorandum, whether of value or otherwise, which may be exchanged for any money, credit, allowance or thing of value, or which may be given in trade. Such machine, apparatus or device is no less a slot machine or device if it indicates beforehand the definite result of one or more operations, but not of all operations. (Code 1962, § 5-63; 3-66)

§ 10-75

Offenses -- Miscellaneous

§ 10-77

#### Sec. 10-75 Same -- Manufacturing, Keeping, Etc.<sup>10</sup>

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<sup>9</sup>For similar State law, see Code of Va., § 18.2-325

<sup>10</sup>For similar State law, see Code of Va., § 18.2-331

No person shall:

(a) Manufacture, own, store, keep, possess, sell, rent, lease, let on shares, lend or give away, transport or expose for sale or lease, offer to sell, rent, lease, let on shares, lend or give away, permit the operation of or permit to be placed, maintained, used or kept in any room, space or building of any kind, public or quasi public or private, owned, leased or occupied by him or under his management or control any slot machine or device.

(b) Make or permit to be made with any person any agreement, express or implied, or in any other way, with reference to any slot machine or device, pursuant to which the user thereof, as a result of any element of chance or other unpredictable outcome, may become entitled to receive any money, credit, allowance or thing of value, or to receive any check, slug, token or memorandum entitling the holder to receive any money, credit, allowance or thing of value, whether through such machine automatically or by delivery in any manner.

(Code 1962, § 5-62; 3-66)

#### Sec. 10-76 Town Employees -- Political Activity.

It shall be unlawful for any person employed by the Town, in any agency or department thereof, to use his official authority or influence for the purpose of interfering with an election or affecting the result thereof. No appointive officer or employee of the Town, or any agency or department thereof, shall take any active part in political management or in political campaigns. All such persons shall retain the right to vote as they may choose and to express their personal opinions on all political subjects and candidates. However, they shall not express their opinion on such political subjects or candidates as officials or employees of the Town. (Code 1962, § 1-9)

As used in this section, the term "appointive officer" shall mean the Town Manager, Town Clerk, Director of Finance and Town Attorney, but shall not include members of boards, commissions or committees of the Town whose members are appointed by the Town Council or recommended by the Town Council for appointment by the Circuit Court. (Amend. 11-6-78)

#### Sec. 10-77 Unsanitary Conditions -- Prohibited.

It shall be unlawful for any person to permit any noxious, unsanitary or offensive matter, stagnant water or other substance which is or might be injurious to the public health to be or remain on his property or in his possession or control. (Code 1962, § 5-65; 3-66)

§ 10-77.1

Vienna Town Code

§ 10-78

#### Sec. 10-77.1 Discarded Materials -- Prohibited. (NEW 12-17-84)

It shall be unlawful for any person, firm or corporation to bring into the Town of Vienna or to cause or suffer to be brought into the Town of Vienna any brush, garbage, household or

commercial type trash, debris or discarded materials of any kind for the purpose of having the same or any part thereof collected or disposed of during, by or through any Town sponsored service, or any program conducted by the Town of Vienna.

Sec. 10-78 Vagrants.

The following persons shall be deemed vagrants:

- (a) All persons who shall unlawfully return to this Town after having been legally removed.
- (b) All persons who, not having the wherewithal to maintain themselves and their families, live idly and without employment, and refuse to work for the usual and common wages given to other laborers in like work in the Town.
- (c) Persons wandering or strolling about in idleness who are able to work and have no property to support them.
- (d) Persons leading an idle, immoral or profligate life, who have no property to support them, and who are able to work and do not.
- (e) All able-bodied persons found begging for a living, or who quit their homes and leave their wives or children without the means of subsistence.
- (f) All persons who shall come from any place from without this Town, who shall be found loitering and residing herein, and shall follow no labor, trade, occupation or business, and have no visible means of subsistence, and can give no reasonable account of themselves or their business.
- (g) All persons having a fixed abode who have no visible property to support them, and who live by stealing or by trading or bartering stolen property.
- (h) All persons who are able to work and do not work, but hire out their minor children and live upon their wages.

§ 10-78

Offenses—Miscellaneous

§ 10-78

(i) All persons who have no visible income lawfully acquired and who consort with idlers, gamblers, bootleggers, prostitutes, narcotic users, narcotic vendors, persons engaged in the operation of any disorderly house or illegal enterprise of any kind, or persons having the reputation of any of the above named.

It shall be the duty of the police officials to give information, under oath, to any officer empowered by law to issue criminal warrants, of all vagrants within their knowledge or persons

whom they have good reason to suspect of being vagrants. Thereupon, or upon the complaint of any person upon oath, the officer shall issue a warrant for the arrest of the person alleged to be a vagrant, and he shall be brought before the municipal court for trial. In addition to any other penalty imposed under this Code, the judge in his discretion may permit such person convicted under this section to give bond with sufficient security in an amount not exceeding five hundred dollars (\$500), nor less than one hundred dollars (\$100) conditioned upon his future industry and good conduct for one year.

Upon giving such bond, such person shall be set at liberty without undergoing the punishment imposed by his conviction. It shall be sufficient defense to the charge of vagrancy under this section that the defendant has made reasonable bona fide efforts to obtain employment at reasonable prices for his labor and has failed to obtain the same.

Whenever any person is apprehended or arrested as a vagrant, it shall be unlawful for the authorities to discharge such person upon condition that such person leaves the Town.

(Code 1962, § 5-66; 3-66)

Sections 10-79 and 10-79.1 through 10-79.13 REPEALED (3/18/02)

## Vienna Town Code